

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

SCOTT BERRIE, individually and on behalf  
of all others similarly situated,

Plaintiff

v.

GABRIEL CAPITAL, L.P., J. EZRA  
MERKIN, and BDO SEIDMAN, LLP,

Defendants

Civil Action No. 08-cv-10930-CM

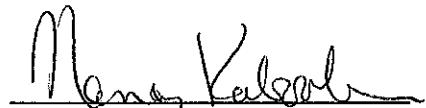
PLEASE TAKE NOTICE that, pursuant to Section 21D(a)(3)(B) of the Securities Exchange Act of 1934, as amended by the Private Securities Litigation Reform Act of 1995 ("PSLRA"), plaintiff Scott Berrie, hereby moves this Court at the United States District Court for the Southern District of New York, located at 500 Pearl Street New York, NY 10007-1312, on February 27, 2009 at 11:15 a.m. for an Order appointing Mr. Berrie as Lead Plaintiff in the this action and any subsequently filed related cases, and approving his selection of Lead Counsel.

This Motion is based on the accompanying Memorandum of Law in support thereof, the Declaration of Nancy Kaboolian, and all prior pleadings and proceedings herein, and such other written or oral argument as may be permitted by the Court.

Dated: February 16, 2009

Respectfully Submitted,

**ABBEY SPANIER RODD &  
ABRAMS, LLP**



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Proposed Lead Counsel for the Class*